

AMENDED IN SENATE APRIL 21, 2003

**SENATE BILL**

**No. 248**

**Introduced by Senator Murray**

February 14, 2003

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~~An act to amend Section 3000 of the Vehicle Code, relating to~~ *An act to amend Sections 415, 426, 3001, 3003, 3051, and 3062 of the Vehicle Code, relating to vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

SB 248, as amended, Murray. Vehicles: New Motor Vehicle Board: *recreational vehicles.*

*(1) Existing law defines a "new motor vehicle dealer" as a dealer who, among other matters, acquires for resale new and unregistered motor vehicles from manufacturers or distributors of those vehicles. Existing law establishes a New Motor Vehicle Board that regulates the activities or practices of a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative, as specified.*

*This bill would include a recreational vehicle, as defined, as a motor vehicle for the purposes of this definition and for the purposes of the operation of the board, except for truck campers and park trailers.*

*(2) Existing law requires 4 of the appointive members of the board to be new motor vehicle dealers, as defined.*

*This bill would exclude dealers who deal exclusively in recreational vehicles, as defined, from those membership provisions of the board.*

*(3) Under existing law, if a franchisor seeks to enter into a franchise establishing an additional motor vehicle dealership within a relevant market area where the same line-make is then represented, or seeks to relocate an existing motor vehicle dealership, the franchisor is required*

to undertake a specified procedure involving the new Motor Vehicle Board before establishing or relocating the franchise.

*This bill would provide that the existing procedure restrictions do not apply to an annual show sponsored by a national trade association of recreational vehicle manufacturers that complies with certain requirements.*

*The bill would define the term “line-make” for purposes of the sale of new recreational vehicles.*

~~Existing law establishes the New Motor Vehicle Board within the Department of Motor Vehicles and provides that the board consists of 9 members.~~

~~This bill would make technical, nonsubstantive changes in existing law.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 3000 of the Vehicle Code is amended to~~  
 2     *SECTION 1. Section 415 of the Vehicle Code is amended to*  
 3     *read:*  
 4     415. (a) A “motor vehicle” is a vehicle that is self-propelled.  
 5     (b) “Motor vehicle” does not include a self-propelled  
 6     wheelchair, invalid tricycle, or motorized quadricycle ~~when, if~~  
 7     operated by a person who, by reason of physical disability, is  
 8     otherwise unable to move about as a pedestrian.  
 9     (c) *For purposes of Chapter 6 (commencing with Section 3000)*  
 10    *of Division 2, “motor vehicle” includes a recreational vehicle as*  
 11    *that term is defined in subdivision (a) of Section 18010 of the*  
 12    *Health and Safety Code, but does not include a truck camper.*  
 13    SEC. 2. *Section 426 of the Vehicle Code is amended to read:*  
 14    426. “New motor vehicle dealer” is a dealer, as defined in  
 15    Section 285, who, in addition to the requirements of that section,  
 16    either acquires for resale new and unregistered motor vehicles  
 17    from manufacturers or distributors of those motor vehicles or  
 18    acquires for resale new and unregistered off-highway motorcycles  
 19    from manufacturers or distributors of the vehicles. No distinction  
 20    shall be made, nor any different construction be given to the  
 21    definition of “new motor vehicle dealer” and “dealer” except for  
 22    the application of the provisions of Chapter 6 (commencing with

Section 3000) of Division 2 and Section 11704.5. ~~The provisions of Sections 3001 and 3003 shall~~ do not, however, apply to a dealer who deals exclusively in motorcycles *or recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code.*

SEC. 3. *Section 3001 of the Vehicle Code is amended to read:*

3001. (a) Four of the appointive members of the board shall be new motor vehicle dealers as defined in Section 426 who have engaged for a period of not less than five years preceding their appointment in activities regulated by Article 1 (commencing with Section 11700) of Chapter 4 of Division 5. These members shall be appointed by the Governor.

~~Each~~

(b) *Each* of the five remaining appointive members shall be a public member who is not a licentiate under Article 1 (commencing with Section 11700) or 2 (commencing with Section 11800) of Chapter 4 of Division 5 or an employee of such licentiate at the time of such appointment and one of these five appointive members shall have been admitted to practice law in the state for at least 10 years immediately preceding his appointment. One public member shall be appointed by the Senate Rules Committee, one by the Speaker of the Assembly, and three by the Governor.

~~Each~~

(c) *Each* member shall be of good moral character.

~~The provisions of this~~

(d) *This section shall* does not apply to a dealer who deals exclusively in motorcycles *or recreation vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code.*

SEC. 4. *Section 3003 of the Vehicle Code is amended to read:*

3003. (a) Each appointive member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year has elapsed since the expiration of the time for which he or she was appointed, whichever occurs first.

~~The~~

(b) *The* terms of the members of the board first appointed shall expire as follows: one public member and one new motor vehicle dealer member, January 15, 1969; two public members and one new motor vehicle dealer member, January 15, 1970; two public

1 members and two new motor vehicle dealer members, January 15,  
2 1971. The terms shall thereupon expire in the same relative order.

3 ~~Vacancies~~

4 (c) *Vacancies* occurring shall be filled by appointment for the  
5 unexpired term.

6 ~~The provisions of this~~

7 *This section shall* does not apply to a dealer who deals  
8 exclusively in motorcycles or recreational vehicles, as defined in  
9 subdivision (a) of Section 18010 of the Health and Safety Code.

10 SEC. 5. Section 3051 of the Vehicle Code is amended to read:

11 3051. This chapter does not apply to any person licensed as a  
12 transporter under Article 1 (commencing with Section 11700) or  
13 as a salesperson under Article 2 (commencing with Section 11800)  
14 of Chapter 4 of Division 5, or to any licensee who is not a new  
15 motor vehicle dealer, motor vehicle manufacturer, manufacturer  
16 branch, new motor vehicle distributor, distributor branch or  
17 representative. This chapter does not apply to transactions  
18 involving “mobilehomes,” as defined in Section 18008 of the  
19 Health and Safety Code, “recreational vehicles,” as defined in  
20 subdivision (b) of Section 18010 of the Health and Safety Code,  
21 truck campers, “commercial coaches,” as defined in Section  
22 18001.8 of the Health and Safety Code, or off-highway motor  
23 vehicles subject to identification, as defined in Section 38012,  
24 except off-highway motorcycles, as defined in Section 436, and  
25 all-terrain vehicles, as defined in Section 111. Except as otherwise  
26 provided in this chapter, this chapter applies to a new motor  
27 vehicle dealer as defined in Section 426, a dealer of new  
28 recreational vehicles, as defined in subdivision (a) of Section  
29 18010 of the Health and Safety Code, except a dealer who deals  
30 exclusively in truck campers, a vehicle manufacturer as defined in  
31 Section 672, a manufacturer branch as defined in Section 389, a  
32 distributor as defined in Section 296, a distributor branch as  
33 defined in Section 297, a representative as defined in Section 512,  
34 or an applicant therefor.

35 SEC. 6. Section 3062 of the Vehicle Code is amended to read:

36 3062. (a) (1) Except as otherwise provided in subdivision  
37 (b), if a franchisor seeks to enter into a franchise establishing an  
38 additional motor vehicle dealership within a relevant market area  
39 where the same line-make is then represented, or seeks to relocate  
40 an existing motor vehicle dealership, the franchisor shall, in

1 writing, first notify the board and each franchisee in that line-make  
 2 in the relevant market area of the franchisor's intention to establish  
 3 an additional dealership or to relocate an existing dealership within  
 4 or into that market area. Within 20 days of receiving the notice,  
 5 satisfying the requirements of this section, or within 20 days after  
 6 the end of any appeal procedure provided by the franchisor, any  
 7 franchisee required to be given the notice may file with the board  
 8 a protest to the establishing or relocating of the dealership. If,  
 9 within this time, a franchisee files with the board a request for  
 10 additional time to file a protest, the board or its secretary, upon a  
 11 showing of good cause, may grant an additional 10 days to file the  
 12 protest. When such a protest is filed, the board shall inform the  
 13 franchisor that a timely protest has been filed, that a hearing is  
 14 required pursuant to Section 3066, and that the franchisor shall not  
 15 establish or relocate the proposed dealership until the board has  
 16 held a hearing as provided in Section 3066, nor thereafter, if the  
 17 board has determined that there is good cause for not permitting  
 18 the dealership. In the event of multiple protests, hearings may be  
 19 consolidated to expedite the disposition of the issue.

20 (2) If a franchisor seeks to enter into a franchise that authorizes  
 21 a satellite warranty facility to be established at, or relocated to, a  
 22 proposed location which is within two miles of any dealership of  
 23 the same line-make, the franchisor shall first give notice in writing  
 24 of the franchisor's intention to establish or relocate a satellite  
 25 warranty facility at the proposed location to the board and each  
 26 franchisee operating a dealership of the same line-make within two  
 27 miles of the proposed location. Within 20 days of receiving the  
 28 notice satisfying the requirements of this section, or within 20 days  
 29 after the end of any appeal procedure provided by the franchisor,  
 30 any franchisee required to be given the notice may file with the  
 31 board a protest to the establishing or relocating of the satellite  
 32 warranty facility. If, within this time, a franchisee files with the  
 33 board a request for additional time to file a protest, the board or its  
 34 secretary, upon a showing of good cause, may grant an additional  
 35 10 days to file the protest. When such a protest is filed, the board  
 36 shall inform the franchisor that a timely protest has been filed, that  
 37 a hearing is required pursuant to Section 3066, and that the  
 38 franchisor shall not establish or relocate the proposed satellite  
 39 warranty facility until the board has held a hearing as provided in  
 40 Section 3066, nor thereafter, if the board has determined that there

1 is good cause for not permitting the satellite warranty facility. In  
2 the event of multiple protests, hearings may be consolidated to  
3 expedite the disposition of the issue.

4 (3) The written notice shall contain, on the first page thereof in  
5 at least 12-point bold type and circumscribed by a line to segregate  
6 it from the rest of the text, the following statement:

7 “NOTICE TO DEALER: You have the right to file a protest  
8 with the NEW MOTOR VEHICLE BOARD in Sacramento and  
9 have a hearing on your protest under the terms of the California  
10 Vehicle Code if you oppose this action. You must file your protest  
11 with the board within 20 days of your receipt of this notice, or  
12 within 20 days after the end of any appeal procedure that is  
13 provided by us to you. If within this time you file with the board  
14 a request for additional time to file a protest, the board or its  
15 secretary, upon a showing of good cause, may grant you an  
16 additional 10 days to file the protest.”

17 (b) Subdivision (a) does not apply to either of the following:

18 (1) The relocation of an existing dealership to any location that  
19 is both within the same city as, and is within one mile from, the  
20 existing dealership location.

21 (2) The establishment at any location that is both within the  
22 same city as, and is within one-quarter mile from, the location of  
23 a dealership of the same line-make that has been out of operation  
24 for less than 90 days.

25 (c) Subdivision (a) does not apply to ~~any~~ *either of the*  
26 *following*:

27 (1) A display of vehicles at a fair, exposition, or similar exhibit  
28 if no actual sales are made at the event and the display does not  
29 exceed 30 days. This subdivision shall not be construed to prohibit  
30 a new vehicle dealer from establishing a branch office for the  
31 purpose of selling vehicles at the fair, exposition, or similar  
32 exhibit, even though that the event is sponsored by a financial  
33 institution, as defined in Section 31041 of the Financial Code or  
34 by a financial institution and a licensed dealer. The establishment  
35 of these branch offices, however, shall be in accordance with  
36 subdivision (a) where applicable.

37 (2) *An annual show sponsored by a national trade association*  
38 *of recreational vehicle manufacturers that complies with all of the*  
39 *requirements of subdivision (d) of Section 11713.15.*

(d) For the purposes of this section, the reopening of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership.

(e) As used in this section, the following definitions apply:

(1) “Motor vehicle dealership” or “dealership” means any authorized facility at which a franchisee offers for sale or lease, displays for sale or lease, or sells or leases new motor vehicles.

(2) “Satellite warranty facility” means any facility operated by a franchisee where authorized warranty repairs and service are performed and the offer for sale or lease, the display for sale or lease, or the sale or lease of new motor vehicles is not authorized to take place.

(3) “Line-make,” as it applies solely to the sale of any new recreational vehicle, means that group or groups of recreational vehicles, as defined by the terms of a written agreement that complies with Section 331.

~~read:~~

~~3000.—There is in the Department of Motor Vehicles a New Motor Vehicle Board. The board consists of nine members.~~

